



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 15, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Janet Arnold, M.D.
[REDACTED]

Ian Silverman, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

RE: In the Matter of Janet Arnold, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-007) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct
New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the

determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: cmg
Enclosure

	-X	
	:	
IN THE MATTER	:	DETERMINATION
	:	
OF	:	AND
	:	
JANET ARNOLD, M.D.	:	ORDER
	:	19-007
	-X	

The Department appeared by Associate Counsel Ian Silverman. A Notice of Referral Proceeding and Statement of Charges, dated September 14, 2018, were duly served pursuant to PHL §230(10)(d)(i) upon Janet Arnold, M.D. (Respondent), who failed to appear. (Exhibits 2, 3, and 4). The Hearing Committee received and examined documents from the Department (Exhibits 1-6) and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charge that the Respondent committed professional misconduct, in violation of New York State Education Law (Educ. Law) §6530(9)(b) and §6530(9)(d), and that pursuant to PHL §230-a, the penalty of revocation of her medical license is appropriate.

BACKGROUND

The Department has brought the case pursuant to PHL §230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Educ. Law §6530(9). The Respondent is charged with professional misconduct pursuant to Educ. Law §6530(9)(b), having been found guilty of professional misconduct by a duly authorized professional disciplinary agency of another state, where the conduct resulting in such action would, if committed in New York State, constitute professional misconduct under the laws of New York State. The Respondent is also charged with professional misconduct pursuant to Educ. Law §6530(9)(d), by having had her license to practice medicine revoked, or suspended, or having other disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in such action would, if committed in New York State, constitute professional misconduct under the laws of New York State. Under PHL §230(10), the Department has the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. The Respondent was authorized to practice medicine in New York State on October 29, 1987, by the issuance of license number 172865. (Exhibit 5).
2. On June 2, 2017, the State of Washington Medical Quality Assurance Commission (Commission) issued a Statement of Charges against the Respondent, which resulted in a Final Order dated March 1, 2018, permanently revoking her license to practice as a physician and surgeon (Exhibit 6).

3. The Order was based on the Commission's findings that the Respondent repeatedly violated the standard of care in prescribing controlled substances, posing serious risks of patient harm or death; failure to maintain accurate medical records, including routine failure to check vital signs, checking for a history of drug or alcohol use, noting all visits, coordinating patient care with other treating providers, or adequately addressing aberrant drug behavior; and facilitating the unlicensed practice of medicine by allowing an unlicensed family member see patients. (Exhibit 6).

4. The Commission found that the Respondent's unprofessional conduct involved 23 patients, and five complaint cases; and that the Respondent's conduct evinces a pattern of behavior, having been disciplined for substantially the same reasons in 2004. The Commission concluded that the Respondent was unable to practice with reasonable skill or safety, and that she could not be rehabilitated. (Exhibit 6).

VOTE OF THE HEARING COMMITTEE

FIRST SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed misconduct as defined in Educ. Law §6530(9)(d).

VOTE: Sustained (3-0)

SECOND SPECIFICATION

The Hearing Committee concluded that the evidence supports sustaining the charge of having committed professional misconduct as defined in Educ. Law §6530(9)(b).

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Hearing Committee reviewed the Department's evidence showing that the Respondent's license to practice medicine was permanently revoked by the Commission, a duly authorized disciplinary agency. The Commission found that the Respondent committed unprofessional conduct by routinely prescribing controlled substances in a manner violating the standard of care and in such volume as to create a risk of misuse or diversion, failing to maintain complete, timely, and thorough medical records, and facilitating the unlawful practice of medicine. In New York, such conduct would constitute practicing the profession with incompetence on more than one occasion, as defined in Educ. law §6530(5). New York also requires physicians to maintain accurate and complete patient medical records. If the Respondent had disregarded this obligation in New York, his conduct would have constituted negligence on more than one occasion, as defined in Educ. Law §6530(3). Finally, permitting, aiding, or abetting an unlicensed person to perform activities requiring a license violates Educ. Law §6530(11).

In considering the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties; the Hearing Committee noted that although the Respondent was duly served with notice of the hearing pursuant to PHL §230(10)(d), she failed to respond to the charges, and the Commission's findings were significantly serious in nature. Therefore, the Hearing Committee agrees with the Department's recommendation that the Respondent's medical license in New York State be revoked pursuant to PHL §230-a(4).

ORDER

IT IS HEREBY ORDERED THAT:

1. Both specifications of professional misconduct, as set forth in the Statement of Charges is sustained;

2. The Respondent's license to practice medicine is REVOKED; and

3. This Order shall be effective upon service on the Respondent in accordance with the


Requirements of PHL §230(10)(h).

DATED: Albany, New York
, 2019


Mary E. Rappazzo, M.D.
Chairperson

Prosper Remy, M.D.
David F. Irvine, DHSc., P.A.

To: Janet Arnold, M.D.


Ian Silverman, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

JANET ARNOLD, M.D.

STATEMENT

OF

CHARGES

JANET ARNOLD, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 29, 1987 by the issuance of license number 172865 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about March 1, 2018 the State of Washington Medical Quality Assurance Commission (hereinafter Washington Commission) issued a Final Order permanently revoking the Respondent's license to practice as a physician and surgeon. The Final Order was based on the Respondent's care and treatment of twenty-three patients from 2014-2017. The Washington Commission found that the Respondent repeatedly prescribed controlled substances in a manner violating the standard of care and in such volume as to create a risk of misuse or diversion, posing serious risks of patient harm or death. Further, Respondent mismanaged many other clinical issues that heightened risks of patient harm or death. Specifically, the Washington Commission found that Respondent had committed unprofessional conduct in violation of RCW 18.130.180 (4) (Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed.); (7) (Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice.); (10) (Aiding or abetting an unlicensed

person to practice when a license is required) and (14) (Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk)

B. Respondent's conduct as described above upon which the finding of unprofessional conduct in Washington was based would, if committed in New York State, constitute professional misconduct under the laws of the State of New York as follows:

1. New York Education Law §6530(3) (practicing the profession with negligence on more than one occasion.);
2. New York Education Law §6530(5) (practicing the profession with incompetence on more than one occasion);
3. New York Education Law §6530(11) (permitting, aiding or abetting an unlicensed person to perform activities requiring a license); and/or
4. New York Education Law §6530(16) (a willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of medicine.)

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or

suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530((3); (5); (11) and/or (16)) as alleged in the facts of the following:

1.The facts in Paragraph A and B.


SECOND SPECIFICATION

HAVING BEEN FOUND GUILTY OF PROFESSIONAL MISCONDUCT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530((3); (5); (11) and/or (16))) as alleged in the facts of the following:

2.The facts in Paragraph A and B.

DATE: September 14, 2018
Albany, New York


MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct